

HOUSE BILL NO. 420

INTRODUCED BY REINHART, ERICKSON, GALLUS, POMNICHOWSKI, SESSO, FLEMING, WISEMAN,
KAUFMANN, STEENSON, HOLLENBAUGH, EBINGER, BLEWETT, BOSS RIBS, DRISCOLL, BOLAND,
FUREY, BECKER, MALEK, GRINDE, COHENOUR, VAN DYK, SANDS, LASLOVICH, MOSS, ZINKE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A COUNTY, CITY, OR TOWN WITH A BUILDING
CODE ENFORCEMENT PROGRAM MAY ADOPT INCENTIVE-BASED ENERGY CONSERVATION
STANDARDS FOR NEW CONSTRUCTION; PROVIDING THAT THE INCENTIVE-BASED ENERGY
CONSERVATION STANDARDS ADOPTED MAY EXCEED ANY APPLICABLE ENERGY CONSERVATION
STANDARDS CONTAINED IN THE STATE BUILDING CODE; AND AMENDING SECTIONS 50-60-102,
50-60-106, 50-60-301, AND 50-60-802, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-60-102, MCA, is amended to read:

"50-60-102. Applicability -- local government energy conservation standards. (1) Except as
provided in subsection (5), the state building code, as defined in 50-60-203(3), does not apply to:

(a) residential buildings containing less than five dwelling units or their attached-to structures, any farm
or ranch building of any size, and any private garage or private storage structure of any size used only for the
owner's own use, located within a county, city, or town, unless the local legislative body by ordinance or resolution
makes the state building code applicable to these structures;

(b) mines and buildings on mine property regulated under Title 82, chapter 4, and subject to inspection
under the Federal Mine Safety and Health Act;

(c) petroleum refineries and pulp and paper mills, except a structure classified under chapter 7, section
701, group B, division 2, and chapter 9, section 901, group H, outside of process units, of the 1991 edition of the
Uniform Building Code; or

(d) industrial process piping, vessels, and equipment and process-related structures located outside of
another structure occupied on a regular basis by employees or the public.

(2) Except as provided in subsection (5), the state may not enforce the state building code under
50-60-205 for the buildings referred to in subsection (1). A county, city, or town that has made the state building

code applicable to the buildings referred to in subsection (1) may enforce within the area of its jurisdiction the state building code as adopted by the county, city, or town.

(3) When good and sufficient cause exists, a written request for limitation of the state building code may be filed with the department for filing as a permanent record.

(4) The department may limit the application of any rule or portion of the state building code to include or exclude:

(a) specified classes or types of buildings according to use or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable;

(b) specified areas of the state based on size, population density, special conditions prevailing in the area, or other factors that make differentiation or separate classification or regulation necessary, proper, or desirable.

(5) (a) ~~For~~ Subject to subsection (6), for purposes of promoting the energy efficiency of home design and operation, the provisions of the state building code relating to energy conservation adopted pursuant to 50-60-203(1) apply to residential buildings, except:

(i) farm and ranch buildings; and

(ii) any private garage or private storage structure attached to a residential building and used only for the owner's own use.

(b) ~~The~~ Subject to subsection (6), the provisions of the state building code relating to energy conservation in residential buildings are enforceable:

(i) by the department only for those residential buildings containing five or more dwelling units or otherwise subject to the state building code; and

(ii) through the builder self-certification program provided for in 50-60-802 for those residential buildings containing less than five dwelling units and not otherwise subject to the state building code.

(6) (A) A county, city, or town with a building code enforcement program may, as part of its building code or by town ordinance or resolution, adopt VOLUNTARY energy conservation standards for new construction BASED ON FOR THE PURPOSE OF PROVIDING INCENTIVES TO ENCOURAGE VOLUNTARY ENERGY CONSERVATION. The INCENTIVE-BASED standards adopted may exceed any applicable energy conservation standards contained in the state building code.

(B) NEW CONSTRUCTION IS NOT REQUIRED TO MEET LOCAL STANDARDS THAT EXCEED STATE ENERGY CONSERVATION STANDARDS UNLESS THE BUILDING CONTRACTOR ELECTS TO RECEIVE A LOCAL INCENTIVE."

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2 **Section 2.** Section 50-60-106, MCA, is amended to read:

3 **"50-60-106. Powers and duties of counties, cities, and towns.** (1) As allowed by Title 50, chapter
4 60, part 3, the examination, approval, or disapproval of plans and specifications, the issuance and revocation of
5 building permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration
6 and enforcement of building regulations within the limits of a city or town are the responsibility of the city or town.
7 The examination, approval, or disapproval of plans and specifications, the issuance and revocation of building
8 permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration and
9 enforcement of building regulations within the portion of a county that is covered by a county building code
10 enforcement program are the responsibility of the county.

11 (2) Each county, city, or town certified under 50-60-302 shall, within its jurisdictional area:

12 (a) examine, approve, or disapprove plans and specifications for the construction of any building, the
13 construction of which is pursuant or purports to be pursuant to the applicable provisions of the state building code
14 or county, city, or town building code, and direct the inspection of the buildings during and in the course of
15 construction;

16 (b) require that construction of buildings be in accordance with the applicable provisions of the state
17 building code or county, city, or town building code, subject to the powers of variance or modification granted to
18 the department;

19 (c) make available to building contractors at a price that is commensurate with reproduction costs a
20 checklist devised by the department pursuant to 50-60-118 for single-family dwellings and provide to contractors
21 who attach a completed checklist to the plans submitted for examination the relevant building permit or notice
22 of plan disapproval within 10 working days of the contractor's submission;

23 (d) during and in the course of construction, order in writing the remedying of any condition found to exist
24 in, on, or about any building that is being constructed in violation of the state building code or county, city, or town
25 building code. Orders may be served upon the owner or the owner's authorized agent personally or by sending
26 by certified mail a copy of the order to the owner or the owner's authorized agent at the address set forth in the
27 application for permission for the construction of the building. A county, city, or town certified pursuant to
28 50-60-302, by action of its building official, may grant in writing time as may be reasonably necessary for
29 achieving compliance with the order. For the purposes of subsection (2)(a) and this subsection (2)(d), the phrase
30 "during and in the course of construction" refers to the construction of a building until all necessary building

1 permits have been obtained and all work authorized by those permits has been fully approved by the building
2 official having jurisdiction.

3 (e) issue certificates of occupancy as provided in 50-60-107;

4 (f) issue permits, licenses, and other required documents in connection with the construction of a
5 building;

6 (g) ensure that all construction-related fees or charges imposed and collected by the county, city, or town
7 are necessary, reasonable, and uniform and are:

8 (i) except as provided in subsection (2)(g)(iii), used only for building code enforcement, which consists
9 of those necessary and reasonable costs directly and specifically identifiable for the enforcement of building
10 codes, plus indirect costs charged on the same basis as other local government proprietary funds not paying
11 administrative charges as direct charges. If indirect costs are waived for any local government proprietary fund,
12 they must also be waived for the program established in this section. Indirect charges are limited to the charges
13 that are allowed under federal cost accounting principles that are applicable to a local government.

14 (ii) reduced if the amount of the fees or charges accumulates above the amount needed to enforce
15 building codes for 12 months. The excess must be placed in a reserve account and may be used only for building
16 code enforcement. Collection and expenditure of fees and charges must be fully documented.

17 (iii) allocated and remitted to the department, in an amount not to exceed 0.5% of the building fees or
18 charges collected, for the building codes education program established in 50-60-116.

19 (3) Each county, city, or town with a building code enforcement program that has been certified under
20 50-60-302 may, within the area of its jurisdiction:

21 (a) make, amend, and repeal rules for the administration and enforcement of the provisions of this
22 section and for the collection of fees and charges related to construction; and

23 (b) prohibit the commencement of construction until a permit has been issued by the building code
24 enforcement authority having jurisdiction after a showing of compliance with the requirements of the applicable
25 provisions of the state building code or county, city, or town building code or other county, city, or town ordinance
26 or resolution that pertains to the proposed construction. A county, city, or town subject to this subsection (3) may,
27 as part of its building code or by town ordinance or resolution, adopt VOLUNTARY energy conservation standards
28 for new construction ~~BASED ON~~ FOR THE PURPOSE OF PROVIDING INCENTIVES TO ENCOURAGE VOLUNTARY ENERGY
29 CONSERVATION. The INCENTIVE-BASED energy conservation standards adopted may exceed any applicable energy
30 conservation standards contained in the state building code. NEW CONSTRUCTION IS NOT REQUIRED TO MEET LOCAL

1 STANDARDS THAT EXCEED STATE ENERGY CONSERVATION STANDARDS UNLESS THE BUILDING CONTRACTOR ELECTS TO
2 RECEIVE A LOCAL INCENTIVE.

3 (4) Each county, city, or town with a building code enforcement program that has been certified under
4 50-60-302 may perform inspections of buildings that are outside its jurisdictional limits, subject to the following
5 conditions:

6 (a) The inspections are requested in writing by the owners or builders of the buildings to be inspected.

7 (b) The inspections are not done in lieu of inspections by another county, city, or town that has
8 jurisdiction over the buildings to be inspected.

9 (c) (i) The county, city, or town powers of enforcement possessed as a result of building code
10 enforcement certification by the department may not be exercised in conjunction with the requested inspections.

11 (ii) Similar powers of building code enforcement may not be contractually created or required by the
12 requester and the inspecting jurisdiction.

13 (5) In situations in which buildings may be annexed into an inspecting city's or town's jurisdiction
14 subsequent to a requested inspection, the city or town may not require owners or builders to have duplicative
15 inspections of those buildings prior to annexation as a condition precedent to receiving any public services or
16 utilities."

17
18 **Section 3.** Section 50-60-301, MCA, is amended to read:

19 **"50-60-301. County, city, and town building codes authorized -- health care facility and public**
20 **health center doors -- fee adjustment for model plans.** (1) The local legislative body of a county, city, or town
21 may adopt a building code to apply to the county, city, or town by an ordinance or resolution, as appropriate:

22 (a) adopting a building code; or

23 (b) authorizing the adoption of a building code by administrative action.

24 (2) (a) Except as provided in subsection (2)(b), a ~~A~~ county, city, or town building code may include only
25 codes adopted by the department.

26 (b) A county, city, or town may, as part of its building code or by town ordinance or resolution, adopt
27 VOLUNTARY energy conservation standards for new construction ~~BASED-ON~~ FOR THE PURPOSE OF PROVIDING
28 INCENTIVES TO ENCOURAGE VOLUNTARY ENERGY CONSERVATION. The INCENTIVE-BASED energy conservation
29 standards adopted may exceed any applicable energy conservation standards contained in the state building
30 code. NEW CONSTRUCTION IS NOT REQUIRED TO MEET LOCAL STANDARDS THAT EXCEED STATE ENERGY CONSERVATION

1 STANDARDS UNLESS THE BUILDING CONTRACTOR ELECTS TO RECEIVE A LOCAL INCENTIVE.

2 (3) Any provision of a building code requiring the installation or maintenance of self-closing or automatic
3 closing corridor doors to patient rooms does not apply to health care facilities, as defined in 50-5-101, or to a
4 public health center, as defined in 7-34-2102.

5 (4) (a) When the same single-family dwelling plan is constructed at more than one site, the county, city,
6 or town shall, after the first examination of the plan, adjust the required plan fee to reflect only the cost of
7 reviewing requirements pertaining to the review of:

8 (i) zoning;

9 (ii) footings, foundations, and basements;

10 (iii) curbs;

11 (iv) gutters;

12 (v) landscaping;

13 (vi) utility connections;

14 (vii) street requirements;

15 (viii) sidewalks; and

16 (ix) other requirements related specifically to the exterior of the building.

17 (b) If a building contractor alters the single-family dwelling plan referred to in subsection (4)(a) in a
18 fashion that substantially affects the building code requirements, the county, city, or town may impose the full
19 examination fee permitted under 50-60-106."

20
21 **Section 4.** Section 50-60-802, MCA, is amended to read:

22 **"50-60-802. Enforcement of energy code through builder self-certification.** (1) Except as provided
23 in subsection (2), a person who begins construction on a residential building in Montana after October 1, 1993,
24 shall certify in writing to the building owner at the conclusion of construction that the residential building has been
25 constructed in compliance with the energy-efficient construction standards adopted under the provisions of
26 50-60-203(1).

27 (2) A person who begins construction on a residential building in Montana after [the effective date of this
28 act] shall certify in writing to the building owner at the conclusion of construction that the residential building has
29 been constructed in compliance with the VOLUNTARY energy-efficient construction standards adopted by a county,
30 city, or town with a building code enforcement program that has jurisdiction over the construction if:-

~~(A) as part of its building code or by town ordinance or resolution, the county, city, or town has adopted energy conservation standards for new residential construction BASED ON PROVIDING INCENTIVES TO ENCOURAGE VOLUNTARY ENERGY CONSERVATION; AND~~

~~(B) THE BUILDING CONTRACTOR ELECTED TO RECEIVE A LOCAL INCENTIVE THE BUILDING MEETS OR EXCEEDS THOSE STANDARDS."~~

6 - END -